

July 12, 2006

The Regular Meeting of the Rockingham County Board of Supervisors was held on Wednesday, July 12, 2006, at 3:00 p.m. at the Rockingham County Administration Center, Harrisonburg, Virginia. The following members were present:

PABLO CUEVAS, Election District #1
CHARLES W. AHREND, Election District #2
DEE E. FLOYD, Election District #3
WILLIAM B. KYGER, JR., Election District #4
MICHAEL A. BREEDEN, Election District #5

Also present:

JOSEPH S. PAXTON, County Administrator
KIM D.H. GUTTERMAN, Assistant County Attorney
STEPHEN G. KING, Deputy County Administrator
JAMES L. ALLMENDINGER, Director of Finance
WENDELL J. EBERLY, Director of Recreation & Facilities
WARREN G. HEIDT, Director of Public Works
DIANA C. STULTZ, Zoning Administrator
ROBERT A. SYMONS, Fire & Rescue Chief
WILLIAM L. VAUGHN, Director of Community Development
DOTTIE L. BOWEN, Deputy Clerk
DONALD F. KOMARA, Resident Engineer
Virginia Department of Transportation

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CALL TO ORDER
PLEDGE OF ALLEGIANCE
INVOCATION.

Chairman Breeden called the meeting to order at 3:00 p.m.

County Administrator Paxton led the Pledge of Allegiance, and Supervisor Floyd gave the Invocation.

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APPROVAL OF MINUTES.

On motion by Supervisor Ahrend, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved the Minutes of the Meeting held on June 28, 2006, with corrections to pages 16, 18, 28, 30 and 35.

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DON SMITH - SERVICE WEAPON PRESENTATION.

On motion by Supervisor Cuevas, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; in accordance with Virginia Code Section 59.1-148.3, the Board declared as surplus:

Glock Model 27, 40 caliber, Serial #FNT890 - service weapon used by Lt. Don Smith.

On behalf of the County, Sheriff Don Farley presented the weapon to Lt. Smith who is retiring from the Sheriff's Office on October 1, 2006, after serving 25 years and 3 months with the Sheriff's Office.

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TRANSPORTATION DEPARTMENT.

The Board heard Mr. Komara's report on the activities of the Transportation Department.

Supervisor Kyger asked if the road could be raised in the area of the Montezuma and Dry River project. Mr. Komara noted that this was a bridge project and he expected that the site distance problem would be corrected.

In response to a question from Supervisor Floyd, Mr. Komara advised that he was looking into the possibility of prohibiting large trucks from using Route 689.

In response to a question from Chairman Breeden, Mr. Komara reported that much of the debris had been removed from Captain Yancy Road and the work was still in progress.

In response to a previous request from Supervisor Cuevas, Mr. Komara noted that his staff is working on the question of providing commuter information at the "Park & Ride" facilities.

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**RESOLUTION 06-15 - INTERIM LEASE REVENUE FINANCING FOR
SCHOOL CAPITAL PROJECTS.**

Following a presentation by Carolyn M. Perry, Industrial Development Authority Counsel, on motion by Supervisor Kyger, seconded by Supervisor Ahrend and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board adopted the following resolution.

RESOLUTION
OF THE BOARD OF SUPERVISORS OF ROCKINGHAM COUNTY, VIRGINIA,
REGARDING INTERIM LEASE REVENUE FINANCING BY ROCKINGHAM
COUNTY PUBLIC SCHOOLS FOR CAPITAL PROJECTS FOR SCHOOL
PURPOSES

WHEREAS, the School Board of Rockingham County, Virginia (the "School Board") has determined that a vital need exists for construction, reconstruction, expansion and equipping of public school facilities in Rockingham County, Virginia (the "County"); and

WHEREAS, the School Board, in order to meet the needs of present and future enrollments, desires to obtain interim funds in order to pay the costs for construction, reconstruction, expansion and equipping of public school facilities in the County, including Hillyard Middle School and Wilbur Pence Middle School (all capital projects for school purposes within the County being designated collectively herein as the "Project"); and

WHEREAS, the School Board submitted two applications to the Virginia Department of Education ("DOE") for Literary Fund loans ("Literary Loans") for the two middle schools named above, in the aggregate principal amount of \$15,000,000, and these middle schools, respectively, are currently listed as Numbers 30 and 31 on the Waiting List for Literary Loans maintained by DOE, as of the March, 2006 meeting of DOE; and

WHEREAS, the County and the School Board have been advised that no direct Literary Loans are currently available to the School Board; and

WHEREAS, further, upon mature evaluation of all the factors presently known and information available to the County as of the date hereof, the County has determined that participation by the County in the Subsidy Bond Sale this Fall, 2006, through the Virginia Public School Authority (VPSA), cannot be guaranteed given (i) the listing priority for these middle schools on DOE's Waiting List for Literary Loans behind other capital school projects, (ii) current market conditions in light of rising interest rates in the public bond markets, (iii) various unknowns at this time whether the appropriated monies by the Virginia General Assembly shall be sufficient therefore, and (iv) prior experience of the County to plan

participation in a Subsidy Bond Sale, including the application to VPSA for loan funding and the holding of a duly noticed public hearing therefore, under circumstances when the County was subsequently advised by VPSA that the County would be required to wait an additional year for such Subsidy Bond Sale funding; and

WHEREAS, the County and the School Board have requested the assistance of the Industrial Development Authority of Rockingham County, Virginia (the "Authority") to issue its lease revenue note in order to provide interim financing for the Project, and it is reasonably anticipated that the Authority shall approve such issuance at its meeting on July 13, 2006; and

WHEREAS, in light of the uncertainties as to the timing of the County's *actual* receipt of long-term funds to pay the costs of the Project, the County, acting for the benefit of the Authority and the School Board, has solicited proposals from various lending institutions for an up to two-year interim financing in connection with the Project; and

WHEREAS, the School Board has approved a resolution at its July 11, 2006, dully called regular meeting to enter into a lease revenue arrangement with the Authority; and

WHEREAS, under such lease revenue arrangement, it is contemplated that the Authority would issue its \$10,000,000 Industrial Development Authority of Rockingham County, Virginia Lease Revenue Note, Series 2006 ("Bank-Qualified") (referenced herein as the "Note"), pursuant to the following core documents, among other certificates, agreements and instruments as may be advised by bond counsel:

(i) a Note Purchase and Escrow Agreement among the Authority, Shenandoah National Bank (as the "Bank", initial purchaser of the Note), Shenandoah National Bank (as the "Project Fund Manager") and, for purposes of consenting thereto, the County and the School Board (the "Note Purchase and Escrow Agreement"), all in accordance with the terms and conditions offered by the Bank in its Commitment Letter dated June 7, 2006, a copy of which is on file with the County's records;

(ii) a Lease from the School Board to lease the middle schools to the Authority;

(iii) a Leasehold Deed of Trust from the Authority to the Bank, as security for the payment of the Note;

(iv) a Financing Lease between the Authority and the School Board under which the Authority would lease the middle schools back to the School Board, and the School Board would agree to pay rental to the Authority, subject to sufficient annual appropriations by the Board of Supervisors of the County, from time to time, therefor;

(v) an Assignment of Rents and Leases between the Authority and the Bank; and

(vi) a Tax Certificate of the Authority, with the certificate of the School Board attached thereto.

All such documents, including any other certificates, agreements and instruments in connection with the Note are collectively referenced in this Resolution as the "Basic Documents".

WHEREAS, the Board of Supervisors now desires to acknowledge and evidence its concurrence of such transactions by the School Board and the Authority for such lease revenue arrangement in order for the School Board to obtain short-term funds to pay a portion of the costs of the Project in anticipation of receipt of long-term financing from Literary Loans or, alternatively, receipt of long-term financing by the County's participation in a VPSA Subsidy Bond Sale.

WHEREAS, the County has previously made its declaration of intent to reimburse itself from the proceeds of the issuance of the Note in connection with the Project, all as required by federal tax laws in connection with the issuance of exempt bonds.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Supervisors of Rockingham County Virginia, as follows:

1. The Board of Supervisors, acting on behalf of the County (the "Board"), hereby requests and accepts the Authority's assistance to provide interim financing for the Project by the issuance of its Note to the Bank pursuant to the terms of that certain Commitment Letter from the Bank, dated June 7, 2006, including any amendments thereto, attached hereto as **Exhibit A**.

2. It is to be understood that nothing herein contained is or shall be deemed to be a pledge of the faith and credit or the taxing power of the County in connection with the lease revenue financing described above, nor shall anything herein or contemplated under such transactions legally bind or obligate the Board or any future Board of the County to appropriate funds for such purposes.

3. The Board hereby acknowledges, approves and consents to an interim lease financing by the School Board in the maximum principal amount not to exceed \$10,000,000 pursuant to the Basic Documents, as described above, in order for the School Board to obtain interim funding for the Project.

4. The Authority, acting at the request of the County, has approved the designation of the Note as a qualified tax exempt "bank qualified" obligation pursuant to the terms of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended. Accordingly, the Board hereby consents to such designation, affirms its reasonable expectations as to its compliance with the various \$10 million limitations set forth therein, and, further affirms its intention to cause the Authority, and any other subordinate entities of the County to comply with such limitations for the calendar year 2006.

5. It is also to be understood that the County and the School Board presently anticipate that the principal of the Note either will be refinanced with the proceeds of loans from the Literary Fund to the School Board, or refinanced through the County's participation in a subsidy bond sale (as described above). Notwithstanding anything to the contrary, it is to be understood that any other permanent or other long term financing may be obtained, or, alternatively, the County may otherwise provide for the long-term financing of the Project, from time to time.

6. To the extent permitted by law, the Board hereby agrees to pay to the School Board such amounts that shall be sufficient to pay the rental payments and any other amounts owed by the School Board to the Authority pursuant to the Financing Lease, to be used by the Authority to pay the payments on the Note, subject in all cases to annual appropriations by the Board from time to time as permitted under Virginia law. Accordingly, the County Administrator is hereby directed to submit for each fiscal year while the Note shall remain outstanding, a request to the Board of Supervisors for an appropriation to the School Board separate from all other appropriations to the School Board for an amount equal to the rental payments coming due under the Financing Lease for the next ensuing fiscal year. The Board's obligations to make payments to the School Board pursuant to this Resolution, under all circumstances, shall be subject to and dependent upon appropriations being made, from time to time, by the Board for such purposes.

7. The Chairman and Vice Chairman of the Board, and the County Administrator, any one or more of whom may act, and such officers, employees, and agents of the County as any of them may designate, are each authorized and directed to execute and deliver any and all instruments, certificates and other documents required to carry out the purposes of this Resolution, all as may be advised by counsel.

8. The Board and such officers, employees, and agents of the County shall coordinate with the School Board and the Authority in order to accomplish all such further actions as may be necessary or convenient, or as may be required by law, in order to carry out the intent and purposes of this Resolution for the provision of interim financing for the Project.

9. This Resolution will take effect immediately upon its adoption.

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**HARRISONBURG-ROCKINGHAM COMMUNITY SERVICES BOARD - FY 2007
STATE PERFORMANCE CONTRACT.**

Following a presentation by Charlotte V. McNulty, Executive Director, Harrisonburg-Rockingham Community Services Board, on motion by Supervisor Kyger, seconded by Supervisor Ahrend and carried by a vote of 5 to 0, voting

recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board endorsed the FY 2007 State Performance Contract for the Harrisonburg-Rockingham Community Services Board.

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COUNTY ADMINISTRATOR'S STAFF REPORT.

Mr. Paxton noted that a closed meeting would need to be held later in the meeting.

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COUNTY ATTORNEY'S STAFF REPORT.

The Board received and reviewed Mr. Brown's staff report dated July 12, 2006, including information on litigation, proposed sale of Keezletown School property and water agreement with the City of Harrisonburg.

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DEPUTY COUNTY ADMINISTRATOR'S STAFF REPORT.

The Board received and reviewed Mr. King's staff report dated July 7, 2006, including information on the Technological and Industrial Park (TIP), proposed warehouse building, stream repairs, energy performance contract and miscellaneous projects, issue and meetings. He noted that by polling Board members, a consensus had been reached to change the name of the Technological and Industrial Park (TIP) to "Rockingham Center for Research and Technology." Staff will direct Engineering Concepts to proceed with the sign design using this name, with the ability to make changes in detail when the shop drawings for the sign are prepared.

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FINANCE DIRECTOR'S STAFF REPORT.

Mr. Allmendinger did not have a written staff report.

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PUBLIC WORKS DIRECTOR'S STAFF REPORT.

The Board received and reviewed Mr. Heidt's staff report dated July 12, 2006, including information concerning the schedule for Penn Laird Drive and Water Tower Road sewer (required easements being sought); McGaheysville WWTP (copies of preliminary engineering report distributed to Board for review); Phase III Landfill extension (bid documents have gone out); Three Springs Water system analysis (final report to be validated by third party engineering firm); Pleasant Run Interceptor (HRRSA responded to DEQ sewer interceptor plan review inquiry); Lilly Gardens (well upgrade scheduled for week of July 17, 2006); City of Harrisonburg Waste to Energy Plant; Montevideo Water Booster Station Emergency Generator and Transfer Switch (Leon Electric contracted to complete project); and Highland Park and Belmont Sewage Lift Stations (new lift station design initiative in progress).

On motion by Supervisor Cuevas, seconded by Supervisor Ahrend and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; as recommended by the Public Works Committee, the Board authorized staff to proceed with the engineering for the McGaheysville waste water treatment plant upgrade to Sequencing Batch Reactor (SBR) technology. Staff is to bring a financing recommendation to the Board at a later date.

Board members expressed appreciation for the clean appearance of the grounds and the accommodating public service of the staff at the County's container sites.

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COMMUNITY DEVELOPMENT DIRECTOR'S STAFF REPORT.

The Board received and reviewed Mr. Vaughn's staff report dated July 12, 2006, including information concerning priority projects under way, summary of upcoming requests and tabled requests.

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INFORMATION SYSTEMS DIRECTOR'S STAFF REPORT.

The Board received and reviewed Mr. O'Byrne's staff report dated July 12, 2006, including information concerning priority projects under way, summary of upcoming requests and tabled requests.

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FIRE & RESCUE CHIEF'S STAFF REPORT.

The Board received and reviewed Chief Symons' staff report dated July 12, 2006, including information concerning training, prevention activities, and public education.

RESOLUTION NO. 06-16 - ADVANCED LIFE SUPPORT/TRANSPORT SERVICES - ELKTON VOLUNTEER FIRE COMPANY.

On motion by Supervisor Kyger, seconded by Supervisor Ahrend and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board adopted the following resolution.

RESOLUTION NO. 06-16

WHEREAS, Elkton Volunteer Fire Company desires to offer Advanced Life Support/Transport services to residents and visitors of Rockingham County, Virginia; and

WHEREAS, the public safety of residents and visitors of Rockingham County may be enhanced by the provision of Advanced Life Support/Transport by Emergency Medical Technicians; and

WHEREAS, the provision of such services will be under the medical control of an Operational Medical Director who is a licensed physician in the Commonwealth of Virginia; and

WHEREAS, the Rules and Regulations Governing Emergency Medical Services established by the State Board of Health require endorsement of the governing body for an agency to provide such services.

NOW, THEREFORE, BE IT RESOLVED, that the Rockingham County Board of Supervisors does hereby endorse the provision of Advanced Life Support/Transport services by the Elkton Volunteer Fire Company.

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RECREATION & FACILITIES DIRECTOR'S STAFF REPORT.

The Board received and reviewed Mr. Eberly's staff report dated July 12, 2006, including information concerning facilities and recreation programs.

Payments for Animal Shelter Fund Reserve

- As requested by the Director of Social Services for fiscal year 2005-2006 in the amount of \$2,000 for aid to families with dependant children foster care (AFDC). The full amount is federal and state funded, requiring no local match.

Supplemental Appropriation: \$2,000

\$ 2,000	GL Code: 220-05302-200-5705-000 AFDC	
\$ 1,029	GL Code: 220-03303-0100	Public Assistance-Federal
\$ 971	GL Code: 220-02401-0100	Public Assistance-State

Mr. Eberly reported that the painting of the jail is proceeding well and should be finished by July 26, 2006.

Supervisor Kyger asked for the assistance of County staff in preparing for the 2007 NACo Annual Meeting to be held in Jamestown VA.

Supervisor Ahrend reported on a visit made by Supervisors and County staff on July 10, 2006, to visit a MA/COM facility to better understand how the County's new radio system will work. He noted that eight representatives from Rockingham County and two from Harrisonburg went on the tour where the management of the MA/COM facility in Lynchburg gave them an overview of the Mountain System and Valley System. He noted that the group toured "the entire facility to better understand the entire operation and types of products produced, shipping methods, quality control, repair and variety of consumers (Navy, Army, other federal agencies)." He said, "We actually viewed the new radio system which is assembled in the factory. This was a very hands-on tour where everyone was able to fully participate and to better understand how our new system will work." He pointed out that the group "was able to participate in scenarios using portable radios and the infrastructure that will be used in our system. We were able to use such features as talking from 800 MHz (new band) to UHF (the current band also used by Augusta, Page and Shenandoah Counties). We set up one radio on a law enforcement group and spoke to another radio on a public works group. We used the direct access feature, which allows a user to directly call another user directly and have private conversation. We also used the emergency feature which allows a firefighter or law enforcement to activate an emergency button which notifies the dispatcher that someone needs immediate assistance."

Supervisor Cuevas reminded the Board that \$25,000 was discussed to be included in the FY 2006-07 Budget to permit each Supervisor to recommend an allocation of up to \$5,000 for particular projects in the five districts. He noted that he would be asking the Board to consider an appropriation to the Town of Timberville for its new museum which will house historical artifacts. Supervisor Kyger noted his desire that the Board "stay as flexible as possible" since some projects may be more while others may be less than \$5,000.

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CLOSED MEETING.

On motion by Supervisor Kyger, seconded by Supervisor Ahrend and carried by the following vote: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; and KYGER - AYE; the Board recessed the meeting from 4:20 to 4:58 p.m., in accordance with State Code Sections 2.2-3711(A)(3) land acquisition, (30) contractual matters with the City of Harrisonburg and the Town of Elkton, and 15.2-2907(D) Town of Timberville annexation.

At 4:58 p.m., Chairman Breeden called the meeting back to order and the following motion was adopted.

MOTION: SUPERVISOR KYGER RESOLUTION NO: X06-12
SECOND: SUPERVISOR AHREND MEETING DATE: JULY 12, 2006

CERTIFICATION OF CLOSED MEETING

WHEREAS, the Rockingham County Board of Supervisors has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by this Board of Supervisors that such Closed Meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Rockingham County Board of Supervisors hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the Closed Meeting to which this certification resolution applies; and (ii) only such public business matters as were identified in the motion convening the Closed Meeting were heard, discussed or considered by the Board of Supervisors.

VOTE:

AYES: AHREND, BREEDEN, CUEVAS, FLOYD, KYGER

NAYS: NONE

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RECESS FOR FIELD TRIP.

At 4:59 p.m., Chairman Breeden declared the meeting recessed for a field trip to special use permit sites - S06-40 (Hammer - District 5) and S06-44 (City of Harrisonburg - District 3).

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S06-44, REQUEST OF CITY OF HARRISONBURG, C/O WATER & SEWER DEPARTMENT, FOR A MUNICIPAL WATER TANK.

At 7:50 p.m., Chairman Breeden declared the regular meeting back in session. On motion by Supervisor Floyd, seconded by Supervisor Cuevas and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board removed from the table S06-44, request of City of Harrisonburg, c/o Water & Sewer Department, for a municipal water tank on property located on the southeast side of Ramblewood Road (City) approximately 1/4 mile south of Stone Spring Road (Route 726), Election District #3, zoned A2. (This request was tabled by the Board on June 28, 2006.

On motion by Supervisor Floyd, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved S06-44, request of City of Harrisonburg, c/o Water & Sewer Department, for a municipal water tank, subject to the following conditions.

- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- (2) Use shall comply with the Virginia Uniform Statewide Building Code and the proper permit shall be obtained.
- (3) The division of property involved with this request shall be exempt from septic requirements at time of the division since this use shall not require sanitary waste facilities. Language shall be placed in the deed stating that this parcel has not received septic approval and prior to construction of any structure that would require sanitary waste facilities, the land shall be perked or hooked on to public utilities if available.
- (4) If deed exception is made within two years from date of approval of the special use permit, the water tank on the property shall be exempt from the two year completion date. However, at the time of construction, all laws in effect at that date shall be met.

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ADJOURNMENT.

At 7:56 p.m., Chairman Breeden declared the meeting adjourned.

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Chairman